

**ANNUAL REPORT
To the Commissioner
Department of Environmental Protection
July 1, 1998 -- June 30, 1999
FY 99**

I. Introduction

The Board of Underground Storage Tank Installers was established in 1985 by 32 MRSA Chapter 104-A and its authorities expanded and modified by subsequent amendments in 1987, 1989, 1990, 1992, and 1997. According to the statute, the purpose of the Board is as follows:

"In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of underground oil storage tank installers and to assure the availability of underground oil storage tank installations of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil storage tank installation services."

Thus, the Board has three major responsibilities: (1) certifying underground oil tank installers and underground gasoline tank removers, (2) managing and accrediting continuing education for certified underground tank installers and removers, and (3) taking disciplinary actions against installers and removers who violate its enabling statutes and rules. By law, the Board is also charged with submitting an annual report to the Commissioner of the Department of Environmental Protection (32 MRSA §10004(6)). This report is designed to fulfill that mandate for FY 98/99. It covers the following major subject areas:

- Membership and Staffing;
- New Certifications and Testing;
- Recertification and Continuing Education;
- Processing of Complaints;
- Rulemaking and Program Development;
- Newsletter;
- Data Management; and
- Financial Statement

II. Membership and Staffing

Members of the Board are as follows:

- Wayne Gifford, chair (Maine Oil Dealers' Association) - Term expires 12/31/2000
- (Vacant) (DEP) - Term expires 12/31/1999.
- William Carver (certified installer) - Term expires 12/31/2001.
- (Vacant) (Maine Oil and Solid Fuel Board) - Term expires 12/31/2001
- Roger Lewis (Public Member) - Term expires 12/31/2001.
- Raymond Poulin (Maine Fire Chief Association) - Term expires 12/31/1999.
- Joseph (Bruce) Probert (Me. Chamber of Commerce) - Term expired 12/31/1998.¹

Joseph McDonnell served briefly as the representative of the Maine Oil and Solid Fuel Board but resigned for personal reasons on June 2, 1999. James Hynson and Theresa Scott continued to provide staffing to the Board. Staff provided additional sporadic support from the Department of Environmental Protection, including W. David McCaskill, Diana McLaughlin, Beth DeHaas, Harold Evans, Eric Hamlin, Mark Holden and Ted Scharf. Dennis Harnish provided support from the Office of the Attorney General.

III. New Certifications and Testing

This section includes discussions on (A) number of installers certified, (B) written exams, (C) on-site exams, (D) upgrades, and (E) apprenticeships.

A. Number of Installers Certified

The number of certified installers is 142 compared to 145 that were certified at the end of FY 97/98. At present, this includes 139 who hold Class 2 Oil Tank Installer Certificates, and three (3) Class 3 Oil Tank Installers. During the year, two (2) new installers became certified and one whose certificate expired in FY 96/97 was reinstated once the Board determined he had completed the required continuing education credits. Six (6) elected not to apply for recertification once their old certificates expired.

There are three (3) underground gasoline tank removers in Maine, two of who were certified in FY 94/95 and recertified in FY 96/97. The third was certified in FY 96/97.

B. Written Exams

While little effort was spent in FY 98/99 updating written exams, we anticipate significant additional work to continue into FY 99/00 since the Petroleum Equipment Institute revised its recommended practices. Several equipment manufacturers also revised their installation instructions that are used in the examination.

We offered three (3) written examinations to the public during FY 98/99: December 2, 1998, December 8, 1998², and April 15, 1999. In all cases, the Board offered the initial oil tank installer examination, the final examinations for Classes 2 and 3 underground oil tank installer certification, and the underground gasoline tank remover examination. Results of those examinations are provided in Table 1. Two (2) applicants (both of which took the exams twice) took the initial exams. One of these passed the initial examination. Two (2) individuals took and passed the Class 2 final examination.

¹ Mr. Probert completed the maximum number of terms allowed by law as of December 31, 1998. He is continuing to serve until a replacement is found pursuant to the Board's enabling statute.

² The December 8 exam was offered to one individual who claimed he had not been properly notified of the December 2 examination.

Exam	Dec.			April			Total		
	Pass	Fail	Total	Pass	Fail	Total	Pass	Fail	Total
Initial Oil Tank Installer	0	2	2	1	1	2	1	3	4
Class 2 Final	2	0	2	0	0	0	2	0	2
Class 3 Final	0	0	0	0	0	0	0	0	0
Gasoline Tank Remover	0	0	0	0	0	0	0	0	0
Total	2	2	4	1	1	2	3	3	6

Table 1. Results of written examinations given by the Board of Underground Storage Tank Installers FY 98/99.

All six (6) members of DEP's oil enforcement unit took and passed the initial installer's examination this past year. Pursuant to the Board's rules (06-481 CMR c. 3 §11), DEP staff has to have scores of 90% or better to pass the initial examination and become certified employees of the Department.

C. On-Site Exams

The 1990 amendments to the Board's enabling legislation and rules eliminated the need to conduct on-site examinations for applicants for oil tank installer certificates. While on-site exams remain required for underground gasoline tank removers, no applicants for underground gasoline tank remover certificates took the written examination in FY 98/99, and thus none were eligible for the on-site examination.

D. Upgrades

No Class 3 Underground Tank Installers completed apprenticeship requirements and passed the final examination to be upgraded to Class 2 Underground Tank Installers in FY 98/99.

E. Apprenticeships

By virtue of passing the initial oil tank installer examination, one (1) applicant qualified as an oil tank installer apprentice this year. Seventy-eight had qualified in previous years. Two (2) of those were eligible to take the final exam last year. Both passed the final exam and are currently the only active apprentices. With the passing of Maine's deadline for tank replacement in October 1997, the requirement for six (6) apprentice installations is expected to become considerably more difficult since the availability of new installation work will probably decline appreciably.

F. Variances

The 1990 amendments to the Board's enabling legislation instituted a variance process for individuals to obtain variances for the apprenticeship portion of the certification process (32 MRSA §10010.3-A.D; 06-481 CMR c. 3 §4.D). During FY 98/99, the Board received no formal applications for variances.

IV. Recertification and Continuing Education

Eighteen (18) installers were granted renewal certificates while five (5) did not reapply. One (1) individual applied but had not met the Board's continuing education requirement, and thus disciplinary action is in progress.

Continuing education programs accredited by the Board in FY 98/99 generally applicable to all installers are listed in Table 2. The Board approved a total of 71 credit hours from both program sponsor and individual installer applicants.

V. Processing of Complaints

Disciplinary actions involving sixteen (16) investigations and alleged violations were processed and resolved in FY 98/99, including nine (9) investigations held over from 1997/98. A summary of the Board's actions in these matters is presented in Appendix A.

Fifteen (15) complaints involving thirty-three (33) alleged violations were received in FY 98/99. Investigations that remain unresolved at the end of the year are listed in Table 3.

Figure 1 shows the number of alleged violations investigated by the Board and its staff since promulgation of the Board's rules in August 1988. This graph indicates a noteworthy increase last year after declining trend in alleged violations in previous years. Now that the October 1, 1997 removal/replacement deadline for bare steel tanks has passed, DEP is beginning to concentrate on ensuring existing, upgraded systems are inspected and deficiencies addressed. As a result, an increased caseload of complaints is expected in the near term. We anticipate that a number of these complaints will address highly complex issues.

VI. Rulemaking and Program Development

We did not engage in rulemaking this year. We still need to amend the rules for certifying underground gasoline tank removers to make them consistent with last year's legislation allowing on-site examinations to be conducted on fuel oil tanks.

In addition, we continue to assess whether the changes in the industry caused by completion of the tank replacement effort and the switch in emphasis to maintenance in Maine warrant modification to the installer certification program. We appreciate any thoughts or input into this assessment.

VII. Newsletter

One of the initial benefits of certification of installers was the development of ability by the State to communicate with installers via a newsletter. Two issues of "The Maine Installer" were published during FY 98/99. The newsletter appears to be well received whenever it can be published.

VIII. Data Management

We continue to use the databases developed previously in EXCEL for our data management needs. A number of other alternatives are in various stages of development within the Department of Environmental Protection and State of Maine as a whole. We await their availability to our program.

IX. Financial Statement

The Board's financial statement for FY 98/99 is provided in Table 4. For the first year, revenues of the Board have their own budget categories in the State system and thus actual values, as entered by the Agriculture, Conservation, and Environmental Protection (ACE) Service Center are provided.

Income shown for recertification varies widely on a biennial basis. Recertification is required every two (2) years, and thus income for this year reflects the vast majority of tank installers becoming recertified this year. It is therefore expected that this figure will follow two (2) year cycles of being high and low, with this year a high year.

Respectfully Submitted,

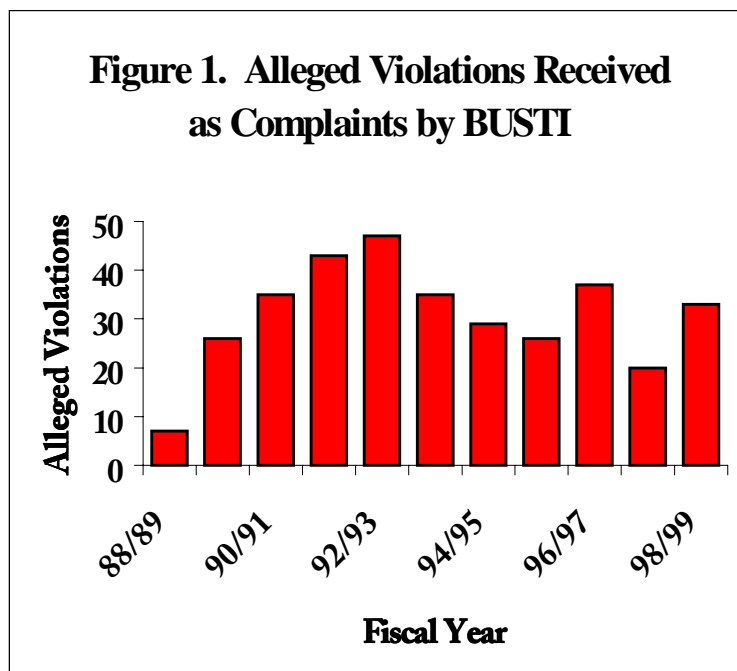
Wayne Gifford,
Chairman

PROGRAM	SPONSOR	Approval Date	HOURS
Operation Underground (Installation Self Study)	American Petroleum Institute	July 10, 1998	3
Operation Underground (Removal Self Study)	American Petroleum Institute	July 10, 1998	2
40-Hour Hazardous Waste (Renewal)	Burgess & Associates	July 10, 1998	8
8-Hour Hazardous Waste (Renewal)	Burgess & Associates	July 10, 1998	2
8-Hour Hazardous Waste (Renewal)	Southern Maine Tech (Installer Request)	July 10, 1998	2
Underground Tank Management Workshop	ME Dept. Env. Protect.	August 21, 1998	1
40-Hour Hazardous Waste (Renewal)	CES Engineers/Kay Allcroft	Sept. 18, 1998	8
8-Hour Hazardous Waste (Renewal)	CES Engineers/Kay Allcroft	Sept. 18, 1998	2
1998 Underground Tank Program	Maine Oil Dealers Assoc.	Sept. 18, 1998	4
40-Hour Hazardous Waste (Renewal)	Safety Communications Corp.	January 29, 1999	8
8-Hour Hazardous Waste (Renewal)	Safety Communications Corp.	January 29, 1999	2
8-Hour Hazardous Waste Supervisor (Renewal)	Safety Communications Corp.	January 29, 1999	2
Environmental Sampling Procedures (Renewal)	Safety Communications Corp.	January 29, 1999	1
Spring 1999 Installer Education Day	Maine Oil Dealers Assoc.	February 18, 1999	4
Confined Space Rescue and Entry	Specialized Rescue & Training (Installer Request)	April 30, 1999	3
National Tank Removal Certification Examination	International Fire Code Institute (Installer Request)	April 30, 1999	3
National Tank Installation Certification Examination	International Fire Code Institute (Installer Request)	April 30, 1999	4
40-Hour Hazardous Waste (Renewal)	SafeTech Consult./Deborah Roy	May 21, 1999	8
8-Hour Hazardous Waste (Renewal)	SafeTech Consult./Deborah Roy	May 21, 1999	2
8-Hour Hazardous Waste (Renewal)	Alan Lyscars/Field Services	May 21, 1999	2
Total			71

Table 2. Continuing education opportunities accredited by the Board of Underground Storage Tank Installers FY 98/99.

Principle Violation	Year	No.	Date		Sum	Action Date	Board Action
			Received	Date			
06-096CMRc.691AppJ.3	1999	8	2/25/99	3/18/99	5/21/99		Hearing
06-096CMRc.691App.J.4	1999	8	2/25/99	3/18/99	5/21/99		Hearing
06-096CMRc.691App.J.6	1999	8	2/25/99	3/18/99	5/21/99		Hearing
06-096CMR691.5.A.1.ii	1999	9	3/25/99	5/19/99	5/21/99		Hearing
06-096CMR691.5.A.1.ii	1999	9	3/25/99	5/19/99	5/21/99		Hearing
06-096CMR6916.B.6.a	1999	10	5/17/99				
06-096CMR691.6.B.4.h	1999	10	5/17/99				
06-096CMR691.6.B.6.b.iii	1999	10	5/17/99				
06-096 CMR691.5.B.6.a	1999	11	5/19/99				
06-096CMR691.5.B.7	1999	11	5/19/99				
06-096CMR691.5.B.7	1999	11	5/19/99				
06-096 CMR691.5.B.6.a	1999	11	5/19/99				
06-096CMR691.6.B.2	1999	12	5/25/99				
06-096CMR691.5(D)(13)	1999	13	5/27/99				
06-096CMR691.5(D)(13)	1999	14	5/27/99				
06-096CMR691.AppD.3	1999	15	6/28/99				
06-096CMR691.6.B.2	1999	15	6/28/99				
06-096CMR691.6.B(6)(b)(i)	1999	15	6/28/99				

Table 3. Maine Board of Underground Storage Tank Installers ongoing enforcement actions as of June 30, 1998.



Income (Estimated)	(\$)
License Fees (Row 2)	6,300.00
Civil Penalties ³	9,800.00
Exam Fees (Row 4)	1,300.00
Subtotal	\$17,400.00
Expenses: Account 014 06A 1520 44x	(\$)
Personal Services (Row 8)	67,578.80
Fringe	23,979.66
Contractual	763.71
Travel	736.03
Supplies	98.68
Other	351.61
Sta-Cap (Row 14)	1,878.11
Subtotal	\$93,508.49
Grand Total⁴	(\$76,108.49)

Table 4. Financial statement for the Board of Underground Tank Installers, July 1, 1998 through June 30, 1999.

³ Includes \$3800 in civil penalties not yet collected due to an appeal to Administrative Court.

⁴Pursuant to 32 MRSA Sec. 10012.2, all fees and expenses of the Board of Underground Storage Tank Installers are deposited into and paid out of the Ground Water Oil Cleanup Fund. Thus, shortfalls of the Board are made up from other revenue sources from the Fund.

Appendix A

Maine Board of Underground Storage Tank Installers
Summary of FY 98/99 Enforcement Actions (By Violation)

Alleged Violation	Year	No.	Date Received	Action Date	Board Action	Result	Fine	Suspension (Days)	Probatio n (Days)	Other	Date Closed
06-096CMR691.4.M	1998	10	3/2/98	5/15/98	Hearing	Order	\$250				7/10/98
06-096CMR691.5.B.4.a	1999	3	7/13/98	8/21/98	Dismiss	Dismiss					8/21/98
06-096CMR691.6.B.2	1999	2	7/13/98	8/21/98	Consent Agreement	Consent Agreement	\$500				9/18/98
06-096CMR691.6.B.3.b	1999	5	8/17/98	9/18/98	Consent Agreement	Consent Agreement	\$250				10/16/98
06-096CMR691.7.B.4	1999	6	11/5/98	4/30/99	Hearing	Order	\$500				4/30/99
06-096CMR691.7.B.4	1999	6	11/5/98	4/30/99	Hearing	Order	\$1,000				4/30/99
06-096CMR691.7.B.4	1999	6	11/5/98	4/30/99	Hearing	Order	\$1,000				4/30/99
06-096CMR691.7.B.4	1999	6	11/5/98	4/30/99	Hearing	Order	\$800				4/30/99
06-096CMR691.11.A.1.d	1999	6	11/5/98	4/30/99	Hearing	Order	\$500				4/30/99
06-096CMR691.11.4	1999	4	8/3/98	9/18/98	Dismiss	Dismiss					9/18/98
06-096CMR691App.J.2	1998	11	4/21/98	7/10/98	Hearing	Order	\$1,500	90		Ed	8/21/98
06-096CMR691App.J.2	1999	4	8/3/98	9/18/98	Dismiss	Dismiss					9/18/98
06-481CMR1.4(A)(1)(a)	1998	18	6/23/98	8/21/98	Consent Agreement	Consent Agreement				Warning, OSHA	9/18/98
06-481CMR1.4.B(1)	1998	13	6/1/98	7/10/98	Consent Agreement	Consent Agreement	\$250		180	Ed	7/10/98
06-481CMR1.4.B(1)	1998	14	6/1/98	7/10/98	Consent Agreement	Consent Agreement	\$250		180	Ed	7/10/98
06-481CMR1.4.B(1)	1998	15	6/1/98	7/10/98	Consent Agreement	Lic. Expired					7/10/98
06-481CMR1.4.B(1)	1998	16	6/1/98	7/10/98	Consent Agreement	Lic. Expired					7/10/98
06-481CMR1.4.B(1)	1998	17	6/5/98	7/10/98	Consent Agreement	Consent Agreement	\$250		180	Ed.	7/10/98

Appendix A

Alleged Violation	Year	No.	Date Received	Action Date	Board Action	Result	Fine	Suspension (Days)	Probation (Days)	Other	Date Closed
06-481CMR1.4.B(1)	1999	7	12/18/98	12/18/98	Consent Agreement	Consent Agreement	\$250		180	Ed	1/29/99
38 MRSA564.1.A	1999	1	7/6/98	8/21/98	Consent Agreement	Consent Agreement	\$1,000				9/18/98
38MRSA543	1998	11	4/21/98	7/10/98	Hearing	Order	\$1,500	90			8/21/98
38MRSA543	1999	4	8/3/98	9/18/98	Dismiss	Dismiss					9/18/98

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